IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

LA.App..No. 352 of 2001(C)

LAR.99/1998 of III ADDL.SUB COURT, ERNAKULAM
.....

APPELLANT: CLAIMANT

SRI ITHAPPIRI PAULOSE,
PALATHURUTHIL, KADAMATTOM.

BY ADV. SRI.GEORGE KURUVILLA
SRI.P.V.BABY

RESPONDENT- RESPONDENT:

STATE OF KERALA REP. BY THE CHIEF SECRETARY
TO GOVERNMENT, GOVERNMENT SECRETARIATE,
TRIVANDRUM.

BY ADVOCATE GENERAL
GOVERNMENT PLEADER SMT. K.R.DEEPA

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 19/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. 352 OF 2001-C

Dated: September 19, 2007

JUDGMENT

Kurian Joseph, J.

This is an appeal filed by the claimant against the judgment and decree in LAR No.99/1998 on the file of the IIIrd Addl. Sub Court, Ernakulam. The acquisition is for the purpose of an approach road to Peruvamuzhi bridge. The claimant relied on Ext.A1 judgment in LAR 21/1997 and also Ext.A2 document executed on 8.10.1993. In the mahazar prepared by the land acquisition officer, it has come out in evidence that though the property is described as wet land, it is a partly converted wet land with plants such as jathi, tapioca, pineapple and coconut. The value granted to the property by the Reference Court in LAR No.64/1997 is Rs.65,870/- per Are, in the common judgment in LAR 21/1997 and connected cases. It is not disputed that the acquired property lies on the boundary of the property covered by LAR 64/1997. Ext.A2 document was proved by AW.2. That also is a wet land. There the land value is Rs.24,333/- per Are. It has come out in evidence that the distance between the acquired property and Ext.A2 property is 15 metres. Therefore, it is only just and proper that a proportionate reduction is made from the value of Ext.A2 property as per the same yardstick adopted by the Reference Court in LAR No.21/1997 and connected cases by proportionately reducing the value on the basis of the proximity to the

national highway. In LAR 21/1997 and connected cases, reduction was made at 15%. Taking note of the factual matrix as above, we are of the view that the market value in the instant case has to be fixed at 85% of the value of Ext.A2 property.

Accordingly, we partly allow this appeal and hold that the appellant/claimant shall be entitled to 85% of Rs.24,333/- per Are and also the consequential eligible statutory benefits. The judgment and decree under appeal will stand modified as above.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE.

mt/-

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. No.352 of 2001

JUDGMENT

19.9.2007